

**CITY OF TUCSON**

**SIGN CODE ADVISORY & APPEALS  
BOARD**

**RULES AND REGULATIONS**

01/14/08  
(AMENDED 12/11/96)



I, Marjorie Gorski, Administrative Assistant IV, Development Services Department, City of Tucson, do hereby certify that the following is a true and exact copy of the original Rules and Regulations, Sign Code Advisory & Appeals Board as amended on December 11, 1996, the original of which is on file in the Development Services Department.

JANUARY 14, 2008

*Marjorie Gorski*

## Table of Contents

Legal Requirements .....	1
A. ORGANIZATION	
1. Membership, Appointment, Qualifications .....	1
2. Term and Removal .....	1
3. Election of Officers.....	1
B. OFFICERS AND STAFF	
1. Chair .....	1
2. Chair's Duties .....	1,2
3. Vice-chair.....	2
4. Vice-chair's Duties .....	2
5. Secretary .....	2
6. Secretary's Duties.....	2
7. Docket Book .....	2
8. Minutes Book.....	3
9. Development Services Director's Duties.....	3
10. Deputies.....	3
11. Legal Counsel.....	3
C. MEETINGS	
1. Meetings Open .....	3
2. Date of Regular Meetings .....	4
3. Special Meetings .....	4
4. Notice of Special Meetings and Executive Sessions .....	4
5. Quorum.....	4
6. Agenda .....	4
7. Robert's Rules of Order .....	5
D. POWERS AND DUTIES OF BOARD	
1. Board's Powers.....	5
2. Variances.....	5
3. Powers Denied the Board.....	5
E. APPLICATIONS AND APPEALS	
1. How Filed.....	5
2. Who May File Appeals.....	5

3.	Transmittals to Board.....	5
4.	30-day Limit.....	6
5.	Dismissal of Improper Appeal.....	6
6.	Forms to be Used.....	6
7.	Required Information.....	6
8.	Property Owner's Signature.....	6
9.	Identification in Proceeding.....	7
10.	Fees.....	7
11.	Case Numbers Assigned.....	7
12.	Filing Date Deadline.....	7
13.	Stay of Proceeding.....	7

## F. HEARINGS

1.	Notice of Hearing.....	7
2.	"Parties in Interest" Defined.....	8
3.	Failure to Appear.....	8
4.	Who May Appear.....	8
5.	Order for Hearings.....	8
6.	Determining Jurisdiction.....	8
7.	Order of Debate.....	9
8.	Board and Staff's Remarks.....	9
9.	Applicant Questioned.....	9
10.	Evidence.....	9
11.	Burden of Proof.....	9
12.	Deferring Action.....	9
13.	Postponing Cases.....	9

## G. DECISIONS OF BOARD

1.	Votes Required.....	9, 10
2.	Disqualification.....	11
3.	Findings on Variances.....	11
4.	Findings on Appeals.....	11
5.	May Impose Conditions.....	11
6.	Enforcement of Decisions.....	11
7.	Granted Requests Expires in 180 Days.....	11
8.	Advice.....	11
9.	No Precedents.....	11
10.	Appeal from Board's Action.....	12

## H. REFILINGS AND REHEARINGS

1.	No Filing Until After One Year.....	12
2.	Exceptions.....	12

3.	No Subterfuge.....	12
4.	Reopening Cases .....	12
5.	When Hearing Considered Closed .....	12
6.	Deferred Agenda .....	12
7.	Request for Reconsideration .....	13
8.	Placed on Agenda .....	13
9.	Time for Appeal to Courts Extended.....	13
12.	Vote Required to Reconsider.....	13
13.	Hearing Held or Scheduled.....	14

#### I. AMENDMENTS TO RULES

1.	Vote Required.....	14
2.	Procedural Rules Suspended .....	14

Legal  
Requirements

XI

These Rules and Regulations are made pursuant to the provisions of Arizona Revised Statutes §9-461, et seq., and pursuant to Article ~~XIV~~ Chapter 3 of the Tucson Code. Three certified copies of these Rules and Regulations and amendments thereto shall be filed with the Tucson City Clerk to be kept as a permanent public record. Copies of these Rules and Regulations shall be available to the public from the Development Services Department at \$2.50 per copy.

A. ORGANIZATION

Membership  
Appointment  
Qualifications

1. See Section 3-~~155~~ <sup>3-122(A)</sup> of the Tucson Code (~~Appendix~~).

Term and Removal

2. See Sections 3-~~115~~ <sup>3-122(B)(C)</sup> (C) of the Tucson Code.

Election of Officers

3. The Board shall elect a Chair and Vice-chair from among its members at the first regular meeting every January for a term of one year.

B. OFFICERS AND STAFF

Chair

1. The Chair shall preside at all meetings and hearings. In the event of absence or disability of the Chair, the Vice-chair shall preside. In absence of both, the members shall appoint a Chair.

Chair's Duties

2. The Chair may designate members of the Board to make personal inspections when necessary from time to time and unless otherwise directed by a majority of the Board, shall appoint such committees as may be found necessary.
3. The Chair shall report on all official transactions that have not otherwise come to the attention of the Board.

4. The Chair shall, subject to these Rules and Regulations and further instructions from the Board, direct the official business of the Board, supervise the work of the Secretary, request necessary help, direct the work of staff, and exercise general disciplinary power.
  5. The Chair, subject to these Rules and Regulations, shall decide all points of procedure or order, unless otherwise directed by a majority of the members in attendance on motion duly made and approved. The Chair may administer oaths and take evidence and compel the attendance of witnesses.
  6. The Vice-chair shall perform the Chair's duties whenever the Chair is absent from the City.
  7. The Board shall appoint its Secretary who shall not be a Board member but shall be a member of Development Services Department staff.
  8. The Secretary, subject to the provisions of the Sign Code, these Rules and Regulations and the direction of the Board and its Chair, shall attend to all correspondence of the Board; send out all notices required; attend meetings of the Board and all hearings; scrutinize all matters to see that there is compliance with the Sign Code and these Rules and Regulations; keep the minutes of the Board's proceedings showing the vote of each member, the record of its examinations and other official actions; compile all required records; maintain the necessary files and indexes, and generally supervise all clerical work of the Board.
  9. The Secretary shall maintain a docket and minute book which shall be kept posted to date. In the docket book, the Secretary shall enter the number of the case, the name of the applicant, a short description by street number or otherwise of the premises, the nature of the case, and the final disposition. All continuances, postponements, dates of sending notices, and other steps taken and acts done shall be noted on the docket.
- Vice-chair's Duties
- Secretary
- Secretary's Duties
- Docket Book

Minutes Book

10. In the minutes book shall be recorded the decision relating to each case acted upon together with the vote of each member of the Board, those absent being so marked together with all other official actions of the Board.

11. The minutes of its proceedings shall be a public record and shall be kept in the office of the Development Services Department.

Development Services  
Director's  
Duties

12. When a case is filed with the Development Services Department, a copy of the form shall be delivered to the Secretary for docketing and placing on the calendar and shall make a personal inspection of the premises; see that all site plans, sign drawings and/or sketches and statements submitted with the request for determination are properly prepared; and be prepared to advise the Board on the physical conditions of the property affected by such matters.

Deputies

13. The Development Services Director may designate deputies or assistants to act in his/her stead. Their actions or decisions when so authorized shall have the effect of such action by the Development Services Director.

Legal Counsel

14. The City Attorney or his/her designated representative shall be the Legal Counsel for the Board. He/she shall advise the Board on its jurisdiction and give legal advice to the Board. Advice of counsel shall be received and entered in the minutes before disposition of any question of law or matter requiring legal interpretation or advice.

C. MEETINGS

Meetings Open

1. Board meetings shall be open to the public.

Date of Regular Meetings

2. Regular meetings of the Board shall be held at 2:00 p.m. on the first Wednesday after the second Monday of each month and may be recessed or adjourned from day to day or to the next regular meeting.

Special Meetings

3. Special meetings for any purpose may be held on all of the Chair or of four members and at the place designated.

Notice of Special Meetings and Executive Sessions

4. Notice of special meetings shall be given members and general public not less than 24 hours prior to time set except where sooner required by urgency in which event written waivers of notice by members shall be filed. Call of a special meeting to a time certain at any regular meeting shall be notice thereof as to members in attendance. Waiver of notice may be given by members attending any meeting. If a special meeting is called on a case subject to hearing, the required notice provisions for hearings shall be met.

Notice of an executive session only shall be given members and general public and shall state the specific provisions of law authorizing the executive session [A.R.S. §38-431.02(B)].

Quorum

5. A quorum of the Board shall consist of four members.

Agenda

6. The Secretary shall prepare an agenda for each Board meeting listing the matters of business in the following order:
  - a. Call to order—recording of members present and absent
  - b. Minutes—submitted for approval subject to changes directed
  - c. Continued hearings
  - d. New hearings
  - e. Old business—matters pending Board action or further report
  - f. Other business—new business not part of a hearing
  - g. Adjournment.

Robert's Rules  
of Order

7. Robert's Rules of Order shall govern actions of the Board where they are not covered by these Rules and Regulations of the Sign Code.

#### D. POWERS AND DUTIES OF BOARD

Board's Powers

1. The Board may:
  - a. Hear and decide appeals in which it is alleged there is an error or abuse of discretion in any order, requirement, decision, interpretation or other determination made by the Development Services Director in the enforcement of the Sign Code (Tucson Code §3-118). *3-125*

Variances

- b. Hear and decide, grant or deny appeals for variances from the provisions of the Sign Code (Tucson Code §3-118). *3-125*

Powers Denied the  
Board

2. See Section ~~3-126~~ of the Tucson Sign Code.  
*3-127*

#### E. APPLICATIONS AND APPEALS

How Filed

1. Applications to the Board and appeals from the Development Services Director's decisions shall be filed with the Development Services Director [Tucson Code §2-121(A)]. *3-128*

Who May File Appeals

2. Appeals may be filed by any person or persons, jointly or severally, or by any taxpayer or officer, department, board, or bureau of the City aggrieved by the Development Services Director's decisions (Tucson Code §3-125). *3-132*

Transmittals to Board

3. The Development Services Director shall transmit all applications and appeals to the Board together with all plans, papers, and materials pertaining thereto together with his/her report hereon. This transmittal must be postmarked at least (5) five days before the scheduled hearing of the matter.

- 30-day Limit
4. Appeals from the Development Services Director's decisions must be filed within (30) thirty days after the decision in writing is made and filed with the Secretary of the Board who shall send a copy to persons involved.
- Dismissal of Improper Appeal
5. Failure to supply the required information on an appeal and within the (30) thirty day limit may be considered by the Board as a failure to comply with the above rule, and the case may be dismissed for failure of timely filing. Any communication purporting to be an appeal shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with requirements of timely filing.
- Forms to be Used
6. Applications and appeals shall be made on forms provided by the Development Services Director and shall specify the nature of the matter.
- Required Information
7. The reason for the application or appeal must be stated and the reasons why the request should be granted.
- a. If a variance is requested, facts should be stated upon which findings may be made by the Board to justify the granting of the variance as set for in Section 3-119 of the Sign Code.
- 3-126
- b. If an appeal is based upon an error or abuse of discretion of the Development Services Director, facts should be stated as to the nature thereof.
8. The Board may refuse to hear a case upon failure to supply the required information called for upon the forms and as further reasonably required by the Development Services Director.
- Property Owner's Signature
9. The form shall bear the signature of the owner of the property affected or shall be accompanied by a letter from the owner or authorized representative acknowledging the filing of the forms.

Identification in  
Proceeding

10. In every case, either the record owner, the contract purchaser, or the present or prospective tenant shall be identified in the proceedings and records as the applicant.

Fees

11. See Section 3-124 of the Sign Code.  
*3-131*

Case Numbers Assigne

12. Each case shall be numbered serially and shall be the number of the last two digits of the year number plus the number of the case filed for that calendar year. Example: "96-3" for third case filed in the year ~~1996~~ *2008* "08-3"

Filing Date Deadline

13. Cases filed by 4:00 p.m. on the 2nd Monday of the month shall be heard at the regular meeting of the next month (the 1st Wednesday after the second Monday of each month) and shall be heard in numerical order except for continued cases. A case may be heard out of order upon motion of a Board member.

Stay of Proceeding

15. See Section 3-122 of the Sign Code.  
*3-129*

#### F. HEARINGS

Notice of  
Hearing

1. The Secretary shall send a notice of a hearing to the applicant as well as parties in interest and such other persons required to be notified by the Sign Code. Said notice shall be mailed not less than ten days prior to the hearing date. Notice of a hearing shall also be published at least once in a newspaper of general circulation published or circulated in the City of Tucson not less than 15 nor more than 30 calendar days prior to the hearing date and posted in conspicuous places close to the property affected as required by law. Notice may be given in such additional manner as is deemed desirable. Notice shall be deemed to be given to a party in interest if notice is sent to the property owner as shown on the Pima County Assessor's roll. A recess or adjournment of a hearing made at a noticed hearing date to a time and place certain is adequate notice to the members and the public of a new meeting date.

- "Parties in Interest"  
Defined
2. "Parties in interest" means real property owners within 150 foot radius of the exterior lines of the property which is the subject matter of a case.
- Failure to  
Appear
3. If no appearance is made at the hearing by the applicant, the Board may continue the hearing or dispose of the matter on the record before it and hear those who have appeared in response to the notice of hearing.
- Who May  
Appear
4. The applicant and any person that may be affected by the case may appear in his/her own behalf or be represented by counsel.
- Order for Hearings
5. Hearing on cases shall normally follow this order:
- Development Services Director's report
  - Jurisdiction determined
  - Hear applicant
  - Hear others in support of applicant
  - Hear protestants
  - Rebuttals as permitted by Board
  - Close hearing.
- Determining  
Jurisdiction
6. Following the Development Services Director's report, the Chair may note opinion of the City Attorney as to the Board's jurisdiction in the case. Whenever it may appear that the Board lacks jurisdiction, the Chair shall advise the applicant and other interested parties on this point. If there is objection to the City Attorney's opinion, the Board may hear arguments on the question of jurisdiction and request briefs filed on the point. The Board may proceed with the hearing and the taking of testimony in any event and reserve its determination on this question until after the hearing is closed and make a decision on the merits as if it had jurisdiction. If there is no objection to the City Attorney's opinion, the Board may make an immediate determination and close the hearing upon finding that it lacks jurisdiction. If the Board determines by motion that it lacks jurisdiction, the Secretary shall record the decision as a vote to deny the request.

- |                           |   |
|---------------------------|---|
| Order of Debate           | 7. Orderly procedure requires that each side shall proceed without interruption by the other, that all arguments and pleadings shall be addressed to the Board, and that there be no questioning or argument between individuals.               |
| Board and Staff's Remarks | 8. During the hearing, the Chair, Board members, and members of the staff may ask questions and make appropriate comments pertinent to the case; however, no member should debate or argue an issue with the applicant.                         |
| Applicant Questioned      | 9. The Chair and Board members may direct any question to the applicant or any person speaking in order to bring out all relevant facts, circumstances, and conditions affecting the case and may call for questions from members of the staff. |
| Evidence                  | 10. All supporting evidence for and against each case shall be presented to the assembled Board. The applicant shall be responsible for the presentation of all information supporting his case.  |
| Burden of Proof           | 11. The burden of proof for satisfying the findings made by the Board shall rest with the prevailing party.   |
| Deferring Action          | 12. The Board may take a case under advisement for later consideration and determination or may defer action whenever it concludes that additional evidence is needed or further study is required.   |
| Postponing Cases          | 13. Cases may be postponed by prior arrangement with the Secretary if the notice of hearing has not been published.   |

#### G. DECISIONS OF BOARD

- |                |  |
|----------------|--|
| Votes Required | 1. The concurring vote of four Board members shall be necessary to reverse any order, requirement, decision, or determination of the Development Services Director or to grant any variance from the provisions of the Sign Code. (Tucson Code §3-117) 3-124 |
|----------------|--|

- a. A motion made to grant a variance must have four or more "yes" votes to pass and to grant the variance. If there be a lesser number of "yes" votes, the motion fails and the variance is denied.

EXAMPLE: Motion – "Variance be granted"

Yes votes - 4; No votes - 3 – variance granted

Yes votes - 3; No votes - 1 – variance denied

- b. A motion made to deny a variance will pass on every vote unless there are four or more "no" votes. If there be four or more "no" votes, the motion fails and the variance is granted.

EXAMPLE: Motion – "Variance be denied"

Yes votes - 1; No votes - 4 – variance granted

Yes votes - 1; No votes - 3 – variance denied

Yes votes - 3; No votes - 3 – variance denied

- c. A motion made to approve Development Services Director's action will pass on any number of "yes" votes unless there are four or more "no" votes. If there be four or more "no" votes, the motion fails and the Development Services Director's action is reversed.

EXAMPLE: Motion – "approve D.S.D. action"

Yes votes - 1; No votes - 4 – reversal

Yes votes - 1; No votes - 3 – approval

Yes votes - 3; No votes - 3 – approval

Yes votes - 3; No votes - 1 – approval

- d. A motion made to reverse the Development Services Director's action must have four or more "yes" votes to pass and to overrule the Director. If there be lesser number of "yes" votes, the motion fails and the Development Services Director's action is approved.

EXAMPLE: Motion – "Overrule D.S.D. action"

Yes votes - 4; No votes - 0 – reversal

Yes votes - 3; No votes - 1 – approval

Yes votes - 3; No votes - 3 – approval

- Disqualification
2. A member may disqualify himself from voting whenever he/she has a personal or monetary interest in the property concerned in the case or will be directly affected by the decision of the Board or has, or believes he/she has, any conflict of interest under State Statutes. A member may disqualify himself from voting whenever any applicant or his/her agent has sought to influence the vote of the member on his/her case, other than in the public hearing.
- Findings on Variances
3. In acting on variances, the Board shall make findings supporting its actions as set forth in Section 3-119 of the Tucson Code.  
*3-124*
- Findings on Appeals
4. In ruling on appeals from Development Services Director's actions, the board shall make findings supporting its rulings.
- May Impose Conditions
5. In granting a variance, the Board may attach such reasonable conditions as it may deem necessary to implement the purposes of the Sign Code. [T.C. §3-118(B)] *3-125(c)*
- Enforcement of Decisions
6. See Section 3-124 of the Tucson Code.  
*3-131(c)*
- Granted Requests Expires in 180 Days
7. Permits for variances granted by the Board shall be void if the use is not commenced or if a sign permit has not been obtained within 180 days of such granting or within the time stipulated by the Board. The building inspector may grant a single 180 day extension for good cause.
- Advice
8. No informal request for advice or on moot questions need be given by the Board. Any advice, opinion, or information given by any Board member or the Secretary or any official or employee of the City of Tucson shall not be binding on the Board.
- No Precedents
9. No action of the Board shall set a precedent. Each case shall be decided upon its merits and upon the circumstances attendant thereto.

Appeal from Board's  
Action

10. See Section 3-125 of the Tucson Code.  
*3-132*

#### H. REFILINGS AND HEARINGS

No Refiling  
Until After One Year

1. No matter which has been adversely acted upon by the Board shall be considered again within one year following the date of action except as herein stated.

Exceptions

2. The Board may hear cases within said one year period concerning the same property only when:

a. The case does not involve the same request for a permit or does not allege the same misinterpretation, point of noncoverage, or hardship as the previous case, or when

b. The case does not contain the original request for specific variance; or when

c. The previous case was closed without hearing when the applicant was not present at the time such case was scheduled for hearing.

No Subterfuge

Reopening Cases

3. The Board may not reopen any case upon which a previous hearing has been held except to correct a manifest error, but it may be reconsidered as provided by these rules.

When Hearing  
Considered Closed

4. A case will be considered as heard and closed at such time as the Board approves or rejects an application or appeal by motion or when it is considered closed by operation of these rules.

Deferred  
Agenda

5. When the case is opened for hearing and the applicant is not present, the Board may, prior to adjournment that day, recall all such cases; and such case may be closed if applicant is not present for the recall and no acceptable reason is given for failure to appear.

Request for  
Reconsideration

6. A decision of the Board may be reconsidered:
  - a. By motion to reconsider made at the same meeting, and it may be immediately disposed of without further notice.
  - b. By motion to reconsider made not later than the following regular meeting in which event the matter shall be placed on the calendar for a subsequent hearing and new notice given without additional fee.

7. The Board may entertain a request for reconsideration by an applicant or party in interest provided the request is in writing and new written evidence is submitted with the request which could not be presented at the hearing on the matter.

Placed on Agenda

8. On receipt of a properly filed request to reconsider, the Secretary shall place the matter on the agenda for consideration at the next regular meeting. Said request must be filed with the Secretary at least 20 days prior to the next regular meeting date. The Secretary shall provide notice of the hearing on the request for reconsideration in the manner set forth in Rule F1 of these regulations.

Time for Appeal to  
Courts Extended

9. The filing of a request for reconsideration shall stop the running of the 30-day period in which a petition to the Superior Court must be made. The 30-day period will run in such event from the date a decision not to reconsider is made by the Board, or if the matter is reconsidered, from the date the decision on the reconsidered matter is filed in the Board's office.

Votes Required to  
Reconsider

10. The Board shall first decide whether to reconsider a previous decision. A simple majority vote shall be sufficient to reconsider a previous decision. If reconsideration is refused, the Board shall enter on the minutes the basis of the request, the reasons why it was refused, and the vote of the members thereon.

Hearing Held or  
Scheduled

11. If reconsideration is approved, the Board shall either schedule the hearing on the next agenda or immediately hold a hearing to reconsider its previous decision. All Rules and Regulations of this Board which pertain to the original hearing on a request for a variance shall be applicable at a hearing on a request for reconsideration.

I. AMENDMENTS TO RULES

Vote Required

1. These rules may be amended by an affirmative vote of not less than four members of the Board provided that such amendment be presented by a member at a regular meeting and action taken thereon not sooner than the following regular meeting and provided that members are sent a written copy of the proposed change not less than five days prior to the regular meeting at which the amendment is to be voted upon.

Procedural  
Rules Suspended

2. A rule of procedure may be suspended at any meeting by unanimous vote of those present.